

Appl. No. : 10/719,344
Filed : November 21, 2003

REMARKS

This is in response to the Office Action mailed December 23, 2009. The Applicant has canceled Claims 1-3, 5-11, 14-16 and 18-32 herein and has presented new Claims 33-54, whereby Claims 33-54 are the sole pending claims.

By the Action, the Examiner indicated the rejection of Claims 1-3, 5-11, 14-16, 18-22 and 27-30 under 35 U.S.C. § 103(a) as being unpatentable over Walker et al. (US 6,077,163) in view of Seelig et al. (US 2003/0069060) in further view of the game "Press Your Luck". The Examiner further indicated the rejection of Claims 23-26 over that same combination in further view of Slomiany (US 6,612,927) and Claims 31-32 in further view of Engleman (US 2003/0157978).

New Independent Claim 33

The foundation of the Examiner's rejection of the previously pending claims is that Walker discloses a method of operating a gaming device having a flat rate play session which defines a period of play and the Examiner's interpretation of this feature as meeting the claimed feature of a game where a single wager provides a player with a plurality of plays of a single game. The Examiner further indicates the view that Walker's disclosure of the duration of interval as comprising the same feature as maintaining a count of the plays left.

First, Applicant disagrees with the Examiner's basic interpretation of Walker. As the Examiner indicates, Walker discloses a flat rate play session defining a period of time. It is entirely possible that the period of time is so short that a player is permitted to play only a single game, or

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that the player's rate of play is so slow that the player only plays a single game, during the defined time period. Walker's "time period" does not define, let alone ensure, that a player has the right to play any particular number of games. Second, for this same reason, an indication of the remaining time interval does not define a number of game plays. For example, a player could be playing a first game and have 1:00 minute of time remaining. By the time the player finishes the first game, that time interval may have expired such that the player was not able to play any additional games.

More importantly, however, new Claim 33 (in similar fashion to previously pending Claim1) recites a method in which the number of games played/playable is *not* determined by a period of time, but is determined by a "life count". In particular, when game play begins, a life count of at least two lives is indicated. A player plays a game and it is then determined if the life count has changed. The life count may increase, decrease or remain the same. So long as the life count does not reach zero, the player is permitted to continue to play additional games. Thus, if the life count does not reach zero, the player could theoretically play additional games in perpetuity. In this regard, unlike Walker, the player's period of game play is not limited by a period of time. Thus, the Applicant asserts that Walker does not disclose the basic game feature claimed in Claim 33 and thus the cited combination of references does not render the claimed invention unpatentable.

Second, the Examiner cites Seelig as disclosing a gaming device having "game termination" and "game extension" symbols. As indicated, the Examiner relies upon external non-patent literature relative to Seelig. However, Seelig does not disclose or suggest the *Press Your Luck* game which is disclosed in the non-patent literature. Clearly, Seelig discloses an entirely different game or an

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adaptation of the *Press Your Luck* game which is detailed in the non-patent literature. Seelig merely discloses a bonus type game where a player presses a central board button (724) and then the game controller selects a particular game board segment. As illustrated in Figures 22 and 23 of Seelig, such game board segments only indicate bonus values. Seelig does not disclose or suggest any version of a *Press Your Luck* game which includes “Whammies”, “Free Spins” or the like, as is disclosed in the non-patent literature disclosure. Thus, as an initial point, the Applicant asserts that Seelig lacks a disclosure of any of the “game termination” or “game extension” symbols.

To the extent that the Examiner asserts that it would have been obvious to one of ordinary skill in the art to combine the teachings of the *Press Your Luck* game disclosed in the non-patent literature with Walker or Walker in further view of Seelig, the Applicant asserts that there is no suggestion to combine the references and even if combined, the combination does not disclose all of the features of the invention as claimed, for the reasons detailed below.

First, the Applicant asserts that it is not proper to combine the teachings of the *Press Your Luck* game in the non-patent literature with Walker and/or Seelig. As indicated, in the *Press Your Luck* NPL game, multiple players are required and those players are required to answer questions. It is not clear how such a game could ever be adapted to a wagering game such as disclosed in Walker or Seelig where those games are intended to be played by a single player and there is no mechanism for presenting questions to a player or receiving answers from the player. This is likely why Seelig’s *Press Your Luck* bonus event, while having the same name and certain similarities to the *Press Your Luck* NPL game, is not the same as the *Press Your Luck* NPL game.

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Moreover, even if certain principles from the *Press Your Luck* NPL game were to be incorporated into Walker and/or Seelig, the combination does not have the features of the invention as claimed. First, none of the references disclose or suggest that the features of the game could be applied to individual main wagering games. As the Examiner indicates, Seelig discloses a *Press Your Luck* event which is a bonus event. Such event does not require a wager and does not comprise the play of individual games as claimed in Claim 33.

Also, none of the references disclose or suggest maintaining a life count which may increase, decrease or remain the same upon the play of individual games. The *Press Your Luck* NPL game tallies the number of “Whammies” received, but there are no symbols that take away Whammies (i.e. if you receive two Whammies, there are no “Whammy decreasing” symbols that permit the number of “Whammies” to be reduced from two to one).

Moreover, the references do not disclose or suggest permitting a player to play unlimited numbers of games until a life count reaches zero. The *Press Your Luck* NPL document discloses a completely different configuration. In that game, an individual player’s continued game play ends when a Whammy is received, and the player is entirely eliminated if a predetermined number of Whammies are received. These events are based upon receipt of a particular symbol or symbols, not a player reaching life count of zero based upon the sum of symbols received, as is claimed.

In summary, the Applicant asserts that none of the cited reference, whether alone or in combination, disclose a wagering event where a life count is maintained and a player is permitted to

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play a number of individual games limited only by the count reaching zero, as determined by changes in the life count based upon symbols received in the individual games.

New Independent Claim 40

Independent Claim 40 is believed to define patentable subject-matter for similar reasons to Claim 33. In addition, Claim 40 details a method which includes maintaining a “game count” along with a life count. The game count increases as the player plays additional games. If the player achieves a threshold game count (i.e. plays a certain number of games) before their life count expires, then the player is entitled to a bonus award. This aspect of the invention is detailed, among other places, at paragraphs [0078] and [0088] of the application.

New Independent Claim 44

Independent Claim 44 is believed to define patentable subject-matter for similar reasons to Claim 33. Claim 44 details a game which includes a life indicator. Similar to Claim 33, the player can play an unlimited number of independent wagering games based upon a single wager, the total number of games determined only by the life indicator reaching a predetermined level, that level dependent upon the receipt of life indicator increasing or decreasing symbols in the independent wagering games. For example, as indicated in the application, the life indicator may comprise a number of “strikes” (as in a game of baseball), wherein if the life indicator reaches three strikes, then the player is no longer permitted to play additional wagering games. In this embodiment, the strikes

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may be viewed as life decreasing symbols. In another embodiment detailed in the application, the life indicator may comprise a number of “bombs”, wherein if the player achieves a number of bombs, such as five, the player is no longer permitted to play additional wagering games. The “bomb” count may increase by receipt of a life decreasing bomb symbol in the play of a wagering game. In addition, the “bomb” count may decrease, such as by receipt of a “ship” life increasing symbol. This aspect of the invention is detailed, among other places, at paragraphs [0078] and [0079] of the application.

New Independent Claim 51

Independent Claim 51 is also believed to define patentable subject-matter for similar reasons to those detailed above. Claim 51 details a method in which a player is permitted to play multiple independent wagering games based upon a single wager. The total number of wagering games playable by the player is determined by the status of a secondary simulated event. The status of that event changes depending upon results of the wagering games played by the player. If the status of the simulated event reaches a predetermined outcome, then the player is no longer permitted to play additional wagering games. The application discloses various simulated events, such as a football game, mining activity or the like. As an example of the invention, the simulated event may comprise a game of football where the football moves towards and away from the end zone based upon symbols received in the play of the wagering games.

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Dependent Claims 34-39, 41-43, 45-50 and 52-54

These claims are believed to be allowable for at least the reason that they depend from an allowable independent claim. However, these claims are believed to define independently patentable features.

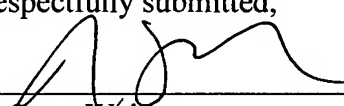
Summary

Applicant asserts that these new claims are in a condition for allowance and respectfully request a notice as to the same. If any matters remain outstanding, the Examiner is invited to contact the undersigned by telephone.

Dated: May 19, 2010

By: _____

Respectfully submitted,


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